

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DONALD A. BUSTOS,

Plaintiff,

v.

No. 15-cv-0702 RB/SMV

FEDERAL EXPRESS CORP.,

Defendant.

ORDER GRANTING DEFENDANT’S MOTION TO COMPEL

THIS MATTER is before the Court on Defendant’s Motion to Compel Further Responses to Defendant’s First Set of Interrogatories and Request for Production of Documents [Doc. 36], filed on April 14, 2016. The time for responding has passed, and Plaintiff has neither responded nor requested an extension of time to do so. The Court, being fully advised in the premises, finds that the Motion is well-taken and should be GRANTED.

Defendant filed its Motion on April 14, 2016, requesting that Plaintiff be compelled to (1) fully respond to its First Set of Interrogatories because several of Plaintiff’s answers consisted of nothing more than “will supplement;” (2) fully respond to its Requests for Production, including producing *all* of the responsive documents in his possession, custody, or control and, additionally, affirmatively indicating that he has produced all such documents; and (3) provide verification for all initial and supplemental answers/responses. [Doc. 36-1] at 2–16. Plaintiff filed nothing in response to the Motion.

“The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion.” D.N.M.LR-Civ. 7.1(b). “A response must be served and filed within fourteen (14) calendar days after service of the

motion.” D.N.M.LR-Civ. 7.4(a). Plaintiff has failed to timely respond to the Motion, and his failure constitutes consent to the grant the Motion. Moreover, the Court finds that Defendant attempted in good faith to obtain the discovery before filing the Motion, and that Plaintiff’s failure to respond to the discovery requests was not substantially justified. Thus, an order of reasonable expenses is required by Fed. R. Civ. P. 37(a)(5)(A).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant’s Motion to Compel Further Responses to Defendant’s First Set of Interrogatories and Request for Production of Documents [Doc. 36] is **GRANTED**.

IT IS FURTHER ORDERED that:

1. Plaintiff must fully and completely respond to Defendant’s First Set of Interrogatories and Request for Production of Documents—including providing verification for all initial and supplemental answers/response—no later than **June 7, 2016**.
2. Defendant is awarded reasonable expenses, including attorney fees, incurred in making the Motion. Defense counsel must file an affidavit of expenses and attorney fees no later than **June 7, 2016**.
3. If Plaintiff has any reason to object to the amount or reasonableness of the expenses, such objections must be filed no later than **14 days** from the filing of the affidavit.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge